

June 15, 2006

Commonwealth Edison Company ("ComEd") submits the following comments in response to Staff's June 8, 2006 request for comment concerning the Phase II topic list originally prepared by Direct Energy and edited by Staff.

ComEd believes that Staff and the participants have produced a thoughtful and, with further refinements, manageable list of topics that will lead to robust and productive discussions during Phase II of this workshop proceeding. ComEd offers the following general observations directly below, with specific topic-by-topic comments thereafter:

- **Workshop Timeline:** The third paragraph in the Introduction section (page 1), states that "[t]here is no expectation that all [20] of these opportunities [topics] should be pursued simultaneously by the Commission. Rather, the list will be refined and referred to over time." The Introduction also notes (on page 2) that "it would be helpful if the Commission could prioritize the items from this list that it would like the participants to focus on before the end of the transition period in January 2007." It is unclear from these sentences what is being recommended to the Commission, particularly in light of the direction given by the Commission with respect to Phase II in its Order in Docket No. 05-0159 ("Staff shall make the recommendations from the Workshop participants to the Commission no later than December 2006.".) To the extent this language contemplates this workshop process extending beyond December 2006 for one or more issues, such a recommendation should be first considered by the workshop participants during the Phase II discussions. ComEd believes most, if not all, topics can be reviewed and reasonable conclusions reached before the end of the year. This is particularly likely if Staff modifies the list of topics, as discussed below, and focuses discussion on practical steps to promote retail competition in the residential and small commercial markets.
- **Scope of the Workshops:** The second paragraph of the introduction refers to "opportunities available to the Commission to promote competitive retail markets in Illinois." ComEd generally agrees that the focus of the workshops should be on opportunities available to the Commission. However, certain topics, such as support for pending legislation, orders on appeals and collateral attacks on Commission orders, are not appropriate topics for workshop proceedings. Moreover, other topics have already been considered in other forums without success. Therefore, ComEd believes the inclusion of such topics, identified further below, would be inappropriate and/or counterproductive and recommends that they be removed from the list provided to the Commission.

- **Topic “Recommendation” and “Background”:** As Staff’s cover e-mail noted, the draft report on Phase II topics was initially prepared by a workshop participant. Although Staff edited the draft to some extent, there are portions of the document that include statements that ComEd believes should be modified or removed prior to submission of the list to the Commission. As specifically addressed below, some of the topic “Recommendations” reflect conclusions or a proponent position on the topic. Similarly, some of the “Background” discussions reflect opinions with which many of the parties may disagree or which are unfounded. The “Background” provided for Topic 12 (Mechanism for Timely Resolution of Operational Issues) is one example. While ComEd can appreciate the need to provide the Commission with some information on these complex topics, such information should be presented in a neutral, straightforward fashion and would be more appropriately titled “Comments” than “Background.”
- **Recommended Topic – “Cost Recovery & Cost Effectiveness”:** In its April 21, 2006, comments, ComEd recommended “Cost Recovery & Cost Effectiveness” as a topic or sub-topic for Phase II discussions. This recommendation was omitted from the draft without explanation. Specifically, ComEd stated:

The recovery and allocation of costs associated with any proposed measure (or “topic”) aimed at advancing competition and requiring utility implementation should be included as part of the discussion of any such measures during the second phase of the workshop process. Similarly, the cost effectiveness and the expected benefits of any such measures also should be considered. Ultimately, efficient competition (i.e., that which maximizes societal benefits) is advanced by a regulatory environment in which only cost effective and beneficial measures are undertaken; the delivery companies implementing such measures are made financially whole; and customers are provided with price signals that are reflective of cost.

ComEd continues to recommend that this be included as an issue.

ComEd offers the following specific changes concerning the twenty (20) proposed topics:

1. **Customer Education:** Although the topic is appropriate for workshops, the “Recommendation” itself is vague and inconsistent with the “Background” provided. The “Recommendation” speaks to a Commission consumer education plan, while the “Background” expresses the opinion that “[a]ll industry participants should be able to participate in the development of ComEd and Ameren’s customer education plans.” Furthermore, it also should be noted in the “Background” or “Comments” section that

in Docket No. 05-0159, the Commission (at page 242) rejected a proposal to review and approve ComEd education materials. The "Background" should also discuss the efforts made pursuant to Section 16-117 of the Public Utilities Act ("PUA").

2. **Seminar on Residential and Small Commercial Electric Competition:** It is unclear why ComEd's proposal to conduct a seminar (conference) was grouped under "Consumer Education and Awareness of Choice." Such a seminar could be used to discuss and explore issues ranging from "Consumer Protection" to "Customer Acquisition."
3. **Clarification of IDC Rules:** The relevance of this topic to "retail competition" is tenuous at best. In fact, the topic is predicated, in part, on the assumption that there is or will not be competition in the market, particularly from green power suppliers. Therefore, ComEd recommends that this topic be removed from this workshop list and considered further in Docket Nos. 06-0388 and 06-0390.
4. **Consumer Protection:** Based on ComEd's experience in the Commission's Post-2006 Workshops, it is recommended that this topic be moved to the "Consumer Education and Awareness of Choice" section along with Topic 1 – Consumer Education. Consumer education and protection are highly interrelated subjects. See, for example, Section 16-117(e)(3) of the PUA. Furthermore, "Consumer Education and Awareness of Choice" should be renamed "Consumer Education and Protection."
5. **Long-Term Wholesale Supply Contracts:** As part of the same conclusion reached in Docket No. 05-0159 (at page 154) that led to the initiation of this workshop process, the Commission established an annual auction review process, which creates a forum for the consideration of proposals concerning the appropriate structure of ComEd's wholesale supply contracts. Therefore, ComEd recommends that this proposal be removed from the list of Phase II topics presented to the Commission. In the event it is not removed, ComEd recommends that the foregoing information concerning the Commission's ruling be included. In addition, the suggestion that there is a "potential for consumer savings associated with shorter term wholesale supply contracts" should be removed from the "Background" or "Comment" section due to its lack of foundation.
6. **Utility Role in Providing Default Service:** As noted above, the Commission established an annual auction review process, which creates a forum for the consideration of proposals concerning the appropriate structure of ComEd's default supply service. Therefore, ComEd recommends that this proposal be removed from the list of Phase II topics presented to the Commission. In the event this topic is not removed, ComEd recommends that the "Background" be revised to remove the

mischaracterizations of the facts. As an IDC and the proponent of the IDC Rules (83 Illinois Administrative Code Part 452), under which ComEd voluntarily surrendered the authority to compete for retail customers, ComEd objects to the suggestion that it would “leverage its incumbency to erect or maintain retail entry barriers.” Moreover, after a yearlong proceeding on the subject, ComEd takes exception to the notion that its default service, as approved by the Commission, is “poorly-structured.” Rather, it is consistent with Illinois law and designed to provide customers reasonable rates for supply service.

7. **Competitive Declarations:** As indicated in the “Background” or “Comment” section, this topic was considered during the Commission’s Post-2006 Workshops and no consensus opinion was reached. Instead of pursuing further dialogue in these workshops, which is no more likely to be fruitful than the Post-2006 Workshops, and detracting from the meaningful progress that could be made in other areas, ComEd recommends that this issue be removed from the list of Phase II topics presented to the Commission.
8. **Establish a working definition of retail competition:** It is unclear why the definition has been placed on the Phase II topic list. The Commission’s Order clearly indicated that this was the focus of Phase I. While ComEd would not be adverse to making further refinements to the definition as may be identified in the discussion on other issues, ComEd recommends that this issue be removed from the list of Phase II topics presented to the Commission.
9. **Leveraging Existing Resources to Promote Retail Competition:** The “Recommendation” and the “Background” or “Comment” section are vague and unclear. The description should be clarified for the benefit of the Commission and for the purposes of setting a clear direction for Phase II discussions.
10. **Office of Retail Market Development:** This relates to pending legislation (i.e., HB 4977). ComEd notes that parties are free to advocate their positions on such matters in whatever manner they so choose. A Commission-sponsored workshop is not an appropriate forum for them to do so. Therefore, ComEd recommends that this issue be removed from the list of Phase II topics presented to the Commission.
11. **Agency, EDI and Meters:** Although the “Recommendation” is vague, ComEd believes the description is appropriate in light of the inherent complexity of the issues and fact that these issues are pending before the Commission in Docket 05-0597.
12. **Mechanism for Timely Resolution of Operational Issues:** As noted in the general comments above, the “Background” discussion is biased and excessive. In particular

the statements that RESs “frequently” or “oftentimes” encounter difficulties with utility business processes or that such processes are inappropriately limiting supply options, are inappropriately conclusory and presents but one side of the story. It also represents a back-door effort to address or emphasize matters currently pending before the Commission in Docket No. 05-0597. In light of the adequacy and neutrality of the description of the topic provided in the “Recommendation,” the “Background” should be stricken in its entirety.

- 13. Promote Greater Uniformity of Terms in RES Agreements With Utilities:** No specific comments.
- 14. Benchmarks & Measures:** It is unclear what meaning the term “Benchmarks” has in light of the description given. Considering the emphasis on “substantive measures” and the reference to reports provided by ComEd in the “Background” section (which is incomplete in light of the other data reported by ComEd), the focus appears to be on developing a process for monitoring the development of competition. If this is the case, than “Monitoring” would be a more accurate characterization than “Benchmarks.” Furthermore, consistent with the Commission’s Order, emphasis should be placed on measuring and monitoring the development of competition in the residential and small commercial markets.
- 15. Reciprocity:** Although ComEd does not object to a general discussion of reciprocity and its effects, if any, on retail competition, it is inappropriate in the context of a Commission-sponsored workshop to discuss litigation or litigation strategy. Indeed, parties are free to advocate their positions on such matters in whatever manner they so choose. A Commission-sponsored workshop is not an appropriate forum for them to do so. Furthermore, the “Recommendation” reflects a bias and presumes that all workshop participants -- some of which may not have yet joined this discussion -- would agree with its objective. Therefore, ComEd recommends that this issue be removed from the list of Phase II topics presented to the Commission.
- 16. ARES Certification Rules – Part 451:** Again, the “Recommendation” is worded in a manner that is biased toward an end result or conclusion that has not been reached or recommended by the workshop participants. It presumes, for example, that the outcome of the discussions will be to “recommend changes” and that “simplif[ied] and streamline[d]” rules should be an objective, which may or may not be the conclusions ultimately reached by the participants or the Commission. The more neutral construction of the “Recommendation” would be: (1) “consider appropriate changes, if any” and (2) strike “simplify and streamline.”

- 17. Telephonic Enrollment:** Again, the “Recommendation” is worded in a manner that is biased toward an end result or conclusion that has not been reached or recommended by the workshop participants. It should be reworded as follows: “Convene a working group to explore the use of telephonic customer enrollment procedures currently used in the Illinois gas and telephone industries.”
- 18. Referral Programs:** ComEd’s proposal concerning “Cost Recovery & Cost Effectiveness,” discussed in the general comments above, should be specifically included in the “Recommendation” as a sub-topic to this topic.
- 19. Municipal Aggregation:** ComEd’s proposal concerning “Cost Recovery & Cost Effectiveness,” discussed in the general comments above, should be specifically included in the “Recommendation” as a sub-topic to this topic. Furthermore, in light of the subject matter, the Staff’s report on Phase II topics should recommend that the Commission extend a direct invitation to municipal associations, such as the Illinois Municipal League, Councils of Government and the Metropolitan Council of Mayors.
- 20. Utility Consolidated Billing – Purchase of Receivables:** Although the “Recommendation” is vague, ComEd believes the description is appropriate in light of the inherent complexity of the issue and the fact that these issues are pending before the Commission in Docket 05-0597. In addition, ComEd’s proposal concerning “Cost Recovery & Cost Effectiveness,” discussed in the general comments above, should be specifically included in the “Recommendation” as a sub-topic to this topic.